

fectious diseases. These reports, it appears, are submitted to your department pursuant to Section 297a of the Political Code and Section 16 of the Public Health Act, respectively.

You further state that you have for consideration two such requests at the present time, one being from the State Compensation Fund. The latter request is for the records of purported tuberculosis patients who are applying for compensation in "silicosis" proceedings. You ask whether such a state agency is entitled to these records of your department when such are needed for the performance of its duties.

In reply permit me to state that neither the State Compensation Fund nor any private agency is entitled to any information concerning individually named persons which is furnished to you under sections of the laws above referred to.

Section 2979 of the Political Code provides that the State Board of Public Health may publish statistics relative to numbers of cases of communicable diseases, and such further comparative statistics and information as may be deemed of value to scientists, the medical profession, the general public, and of aid in the maintenance of good health conditions. The Section is permissible only, subject to the limitations above noted, and contains no language which would indicate that the Board has authority to supply to anyone information concerning individuals.

Section 16 of the Public Health Act (Statutes 1907, p. 893, as amended) requires certain named persons, among them being physicians, to report the illness of any person of any infectious, contagious or communicable disease. It is required that this information be reported to the county, city and county, city, or other local health board or health officer, together with the name of the person, if known, and the place where such person is confined, and the nature of the disease, if known.

Section 11 of the Public Health Act requires county health officers, etc., to report in writing to the State Board of Health at certain specified times, information they have secured concerning infectious, contagious, and communicable diseases coming to the formers' knowledge. Section 13 subjects local health officers to the rules, regulations, and orders of the State Board of Health, or its secretary, and it is my understanding that reports concerning the diseases enumerated in such section are made pursuant to either regulations or orders of the State Board of Health, or its secretary, respectively, and under Section 2979a, which is the statutory counterpart of Section 16 of the Public Health Act.

A careful reading of the sections referred to fails to intimate that it is the duty of any health officer to supply information to members of any private or State agency. In fact, Section 2979a distinctly provides that official records of tuberculosis cases shall be for official use only and not open to public inspection. The latter portion of this section permits the State Board of Health, or its secretary, to take necessary measures to prevent the spread of such contagion, but this power is more commensurate with the right to quarantine than it is with the right to disclose information secured by either the State Board of Health or the Department of Public Health.

Reports furnished to you are not public records unless so declared by statute or unless, at least, a statute authorizes the publication of the matter therein contained. Section 2979 of the Political Code contemplates the publication of statistics only, and it has already been adjudicated in this State that not every record is public because of the fact it is filed with a public agency. (*Colnon v. Orr*, 71 Cal. 43.)

You are, therefore, advised that you are not required to furnish information contained in morbidity reports concerning individuals to any state or private agency, even though such reports relate to disease other than tuberculosis.

You also refer to the request of private agencies for names of persons afflicted with certain infectious diseases. These agencies, you point out, desire to solicit from such persons blood to be used in a serum for scientific purposes.

What has been hereinbefore stated is applicable to this situation as well. While it may well be that the furnish-

ing of the names and addresses of these persons would be an advantage in the preparation of serums for use in the treatment of other diseases, the legislature has made no provision for the supplying of this information.

While Section 1881 of the Code of Civil Procedure does not deal with the subject of reports required by law to be made to the State Board of Public Health, it does state, "There are particular relations in which it is the policy of the law to encourage confidence and to preserve it inviolate"; and thereafter prohibits, except in certain stated instances, a licensed physician or surgeon from testifying in a civil action except with the consent of his patient. All such sections together would seem to indicate the intention of the legislature was to permit reports concerning individuals to be made to the State Board of Public Health for possible action by the Board or its secretary with respect to an individual case. Certainly the sections cannot be said to contemplate that any company or state agency might indirectly secure through the Board information which a physician is prohibited from disclosing except with the consent of his patient.

This does not mean that you could not advise private or public agencies the names of physicians handling certain types of cases (as for example, poliomyelitis), but it would seem to be incumbent upon such physicians to secure the consent of a patient before they could disclose to such agencies the patient's name. There would, likewise, seem to be power in the Board in proper instances to ascertain from the physician in attendance whether it might directly contact the patient to learn if the patient objected to giving blood for a serum either to the State or any public or private agency.

Very truly yours,

U. S. WEBB, *Attorney-General*.

By LIONEL BROWNE, *Deputy*.

Concerning proposed public health work under the Social Security Act.

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC HEALTH
SACRAMENTO

January 16, 1936.

To the Members, State Board of Public Health:

Gentlemen:—Under the Social Security Act, if and when Congress appropriates the amount which has been recommended by the Administration, California's allotment for rural health and sanitation will be in the neighborhood of \$200,000. These funds will be allocated by the United States Public Health Service.

The president of the Board, the director, and the regional consultant to the United States Public Health Service have had numerous conferences in reference to a program for the expenditure of these funds in the State of California. The carrying out of the program will place a great deal of additional work and supervision on this department. We feel that a bureau of county health supervision should be established, and a physician as chief of the bureau be selected who has had experience in the promotion of county health work, and who will act as administrative officer for the supervision of this work. It will be necessary to provide such personnel as secretary to the chief, stenographer, accountant, and supervising nurse.

It has been suggested by the United States Public Health Service that the Board consider the establishment of a bureau of industrial hygiene.

It has also been suggested that funds be set aside to pay for the inspection and control of psittacosis.

We have received a request from the United States Public Health Service that we take over the employment of eighteen rodent-control men, who have been with the Service for many years, and that their salaries be paid out of Social Security funds, which would amount to something like \$20,000 a year. This, with the activities

outlined above in connection with the State Department of Public Health, would total about \$50,000 annually.

The remainder of the funds that are allocated are to be used for strengthening of existing whole-time health departments in the way of adding additional sanitary inspectors and public-health nurses; organizing an additional four or five whole-time health departments in those counties which do not have such an organization, but have sufficient population to justify same. This would care for the major portion of the population of the State in some twenty-odd counties, leaving thirty-eight rural counties with small populations (from 250) to be divided into districts according to geographical lines. Each of these districts would have a whole-time health officer, sanitary inspectors, and public-health nurses living in the various community centers, who will act as representatives of the district health officer. There would also be a traveling unit, consisting of some of our present and additional personnel, to take care of emergencies that might arise.

This program probably could not be carried out during the first few years, but should be the ultimate goal, so that the whole State may have adequate public health service.

In addition to the foregoing, it is proposed that a school of public health be established on the Coast, to which the health officers of the western states will have the privilege of sending personnel to receive education in their particular field. This will be financed by other funds which will be expended in each state by the health officer for scholarships and maintenance expense of the candidates.

Very truly yours,

W. M. DICKIE, M. D.,
Director of Public Health.

Concerning anesthesia administration in California.

STATE OF CALIFORNIA
LEGAL DEPARTMENT

San Francisco,
January 14, 1936.

James P. Dobyns, Managing Editor,
Hospital Management,
612 North Michigan Avenue,
Chicago, Illinois.

Dear Sir:—I have your communication of the 3rd instant in which you ask certain questions concerning anesthesia administration in California.

In reply please be advised that this office has heretofore interpreted the Medical Practice Act of this State to include anesthesia administration as part of the practice of medicine, and as such to be carried on only by medically licensed practitioners.

We have also expressed the view that it is sufficient that a doctor of medicine be in charge of the administration of anesthetics though the administration of anesthetics be by an assistant, provided the responsibility for the giving of the anesthetics is that of the licensed person, that the person actually administering the anesthetic do so as the assistant or "extra hands" of the licensed person, and that the assistant follow instructions of the licensed person and not exercise independent judgment in the diagnosis, treatment or condition of the patient. We have also expressed the view that a lay anesthesiologist may not charge the patient directly for the giving of the anesthetic, as well as that such charge could not be made by a hospital. A charge for the giving of an anesthetic would, in most instances, result in the corporate practice of medicine. In other words, we have stated that the giving of an anesthetic as well as the right to charge for the same is personal to the licensed practitioner.

Opinions of this office heretofore rendered indicate that there is no restriction upon who may assist in the administration of anesthetics as long as the administration is by or under the direction of a licensed practitioner.

Very truly yours,

U. S. WEBB, *Attorney-General.*
By LIONEL BROWNE, *Deputy.*

Concerning "California and Western Medicine" comments on federal survey of chronic diseases.

TREASURY DEPARTMENT

UNITED STATES PUBLIC HEALTH SERVICE

January 23, 1936.

To the Editor:—I want to take this opportunity of thanking you for the wonderful support CALIFORNIA AND WESTERN MEDICINE has given to the U. S. Public Health Service survey of chronic diseases and physical impairments. I assure you that we realize the value of this means of advising the medical profession of the intent and purposes of the survey.

Mr. Sharp, regional publicity director, has advised me that both Washington, D. C., and Detroit offices of the survey are anxious to have copies of the magazine and the extensive article you so kindly published. The Government requests such things, but fails to furnish a means of remuneration, and I am wondering if you publish sufficient copies, to contribute two additional ones to this office in order that we may comply with the requests.

Again assuring you of our appreciation for the support given, I remain

Very truly yours,

DR. ARTHUR HIERONYMUS,
State Supervisor.

208 Builders Exchange Building,
Hobart and Webster Streets, Oakland.
(Note.—Copies were sent.)

Concerning donation to Barlow Medical Library.

December 20, 1935.

Dear Doctor Warnshuis:

The check received from the California Medical Association for \$129.50 as an additional gift to the library is much appreciated, and the organization desires me to express thanks for this additional gift.

The gift of the California Medical Association has enabled us to add many books to the library that would not have been possible otherwise, and, we trust, has enabled us to be of greater use to the members of the State Association as well as our own county members.

Yours, with many good wishes.

MRS. MARY E. IRISH, *Librarian.*

Concerning donation to Lane Library.

STANFORD UNIVERSITY
Office of the President

December 20, 1935.

My dear Doctor Warnshuis:

May I through you thank the members of the California Medical Association on behalf of the University for the recent check for \$129.50 to be credited to the Lane Library Book Fund.

With much appreciation and all good wishes, I am,

Faithfully yours,

RAY LYMAN WILBUR, *President.*

LANE MEDICAL LIBRARY
Sacramento Street at Webster
San Francisco, California

December 19, 1935.

My dear Doctor Warnshuis:

I was so pleased to receive your check of \$129.50. The generous gifts from the California Medical Association have been such a help during this period of curtailed income, and I assure you that we are most appreciative of the assistance. Please accept the thanks of the library staff, and our cordial holiday greetings.

Very truly yours,

LOUISE OPHULS, *Medical Librarian.*